

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Monday, the Second Day of October, 1758, and in the 32nd year of His Majesty's Reign.

32 George II – Chapter 6

An Act for Establishing and Regulating a Militia.

Whereas by His Majesty's Royal instructions to his Excellency the Governor of this Province, he is directed to cause a militia to be established as soon as possible: And whereas the security and preservation of this Province greatly depends upon the said militia being put into methods, under such rules as may make the same most useful for the support and defence thereof, and that the inhabitants should be well armed and trained up in the art military, as well for the honour and service of His most Sacred Majesty, and the security of this His Province, against any violence or invasion whatsoever, as for the preservation of their own lives and fortunes, and that every person may know his duty herein, and be obliged to perform the same:

Be it enacted by his Excellency the Governor, Council, and Assembly, and by the authority of the same it is hereby enacted, that from and after the first day of December, 1758. All male persons, planters, and inhabitants and their servants, between the ages of sixteen and residing in and belonging to this Province, shall bear arms and duly attend all musters and military exercises of their respective companies where they shall be inlisted or belong, allowing three months time to every son after coming to sixteen years of age, and every servant so long after his time is out, to provide themselves with arms and ammunition.

And the clerk of each company, once a quarter yearly, shall take an exact list of all persons living within the precincts of such company, and present the same to the captain or chief officer, on pain of forfeiting forty shillings for each default, to be paid to the captain or chief officer to the use of the company, and in case of non-payment to be levied by distress and sale of the offenders goods, by virtue of a warrant from the captain or chief officer, who is hereby empowered to grant the same.

That every person inlisted in any company, shall so continue and attend all duty in such company, or otherwise suffer the penalty by law provided, until orderly dismissed or removed out of the town or precinct of such company, and in case of removal into the precinct of another company in the same town, to produce a certificate under the hand of the captain or chief officer of the precinct whereunto he is removed, that he is inlisted there if any person liable to be inlisted as aforesaid, do exempt himself by shifting from house to house or place to place, to avoid being so inlisted, he shall pay as a fine for every such offence, to the use of the company to which he properly belongs, ten shillings, being thereof convicted before any one of His Majesty's Justices of the Peace for the county wherein the offence shall be committed.

That every militia inlisted soldier and other housholder residing as aforesaid, shall be always provided with proper and sufficient fire arms, consisting of a musket, gun, or fuzil, not less than three feet long in the barrel, two spare flints, and twelve charges of powder and ball suitable to their respective fire arms, and to the satisfaction of the commission officers of the company to which he belongs, on penalty of forty shillings for want of such arms as is hereby required, and two shillings for each other defective appurtenant, and the like sum for every four weeks he shall so remain unprovided or deficient: The fine to be paid by parents for their sons under age and under their command, and by masters or heads of families for their domesticks or servants, other than servants upon wages; to be levied on the goods and chattels of the offender or offenders, their parents or masters, by warrant under the hand and seal of one or more of His Majesty's justices of the peace for the county wherein the offence shall be committed, and for want of sufficient distress, such offender or offenders to suffer one month imprisonment and hard labour.

That regimental musters shall be made once in every six months, or as often as shall be required by the Governor or Commander in Chief of this Province for the time being, and every Captain or Chief Officer of any company or regiment, shall be obliged, on penalty of five pounds, to draw forth his company, or cause them to be drawn forth once every three months and no more, to exercise them in motions, the use of arms, and shooting at marks, or other military exercises, which every person liable to be trained, having three days notice thereof, and not appearing and attending the same, shall, for each day's neglect, pay a fine of five shillings.

That the commission officers of any company, or the major part of them, may order the correcting and punishing disorders and contempt on a training day, or on a watch; the punishment not being greater than commitment to hard labour, not exceeding forty eight hours, or five shillings fine.

That there be military watches appointed and kept at such times, in such places, in such numbers, and under such regulations, as the governor or commander in chief of this Province for the time being shall appoint; and that all persons able of body, and that are of age, shall by themselves, or some proper person in their stead, to the satisfaction of the commanding officer of the watch, attend the same, on penalty of shillings for each defect, there having been due warning given.

Every militia soldier or other person liable by law, refusing or neglecting to attend military exercises on training days, or military watches, that shall not pay or have any estate to be found whereon to levy the fine, it shall be in the power of the captain or chief officers of such company, on the next training day after such neglect, (he not having satisfied the clerk) to punish him for such offence by commitment to hard labour, not exceeding five days; and if such a delinquent shall absent himself the second day, without giving sufficient reason to the captain or chief officer for such absence, it shall be in the power of the chief officer of the company to direct a warrant to any of the constables of the town wherein the said offence shall be committed, requiring him to apprehend such delinquent, and bring him into

the field, that he may be punished as by this law is provided; and all constables are hereby required to execute such warrants accordingly.

That the persons hereafter named be exempted from all trainings, except such as shall receive commissions in the militia, viz. The members of his majesty's council, the members of the assembly for the time being, the chief Justice, and other judges of courts, Justices of the Peace, Attorney General, Treasurer of the Province, Register of the Province, chief Surveyor of Lands, Naval-Officer, and his Deputy or Clerk, the Secretary, Ministers, Provost-Marshal, Field Officers, the Collector and Surveyor of His Majesty's Customs, and the Waiter, constant Ferry-Men, one Miller to each Grift-Mill, constant herdsmen, and lame persons or otherwise disabled in body, producing a certificate thereof from two able chirurgeons.

That the members of His Majesty's council be, and hereby are exempted from military watches and warding.

That the captain and commission officers of each company, shall and hereby are fully empowered to nominate and appoint proper persons to serve as serjeants and corporals in their respective companies, and to displace them and appoint others in their room, as they shall see occasion.

That twice every year, or oftner if required, every captain or chief officer of each company, shall give order for a diligent enquiry into the state of his company, and for taking an exact list of the names of his soldiers, and other inhabitants within the limits of his company, and of the defeats of arms or otherwise, and names of the defective persons, that they may be prosecuted as the law hath provided, and that such care may be taken as is proper to remedy the same.

That if any person who is by law obliged to provide arms and ammunition, cannot purchase the same by such means as he hath, if he bring to the clerk of the company the full value thereof, according to the apprisement of the clerk and two other persons mutually chosen, he thereupon shall be excused from the penalties for want of arms and ammunition, until he can be provided, which the said clerk shall provide as soon as may be, by sale of such goods, and render the overplus, if any be; but the party shall notwithstanding give his personal attendance upon all occasions as other militia soldiers until he be supplied, and at such times shall perform any proper service he may be put upon by the captain or chief officer of the company he belongs to: But if the person be adjudged unable to buy arms, or to lay down the value proposed, if he be a single man, he shall be put out to service by any two of His Majesty's Justices of the Peace, to earn wherewith to buy arms and ammunition.

That such proper person as by the commission officers of any company shall be appointed clerk, and shall refuse to serve, shall pay forty shillings fine, and another be chosen in his room, and so until one do accept; which person shall be under oath for the faithful discharge of his office, to be administred unto him by a Justice of the Peace of the County, in the words following.

You do swear truly to perform the office of clerk of the military company under the command of A. B. captain, to the utmost of your skill and power, in all things appertaining to your office according to law.

So help you God.

And for every distraint made for any fine not exceeding forty shillings, he shall have one quarter part for his pains and trouble, and for such fines he may distraint ex officio, and in such distress shall observe such rules as the law hath provided in other cases; and upon ten days notice shall account with, and pay the captain or chief officer what fines he hath received, his own part being deducted.

The chief military officer of the regiment, as often as he shall see cause, shall require the captain or chief officer of each company in his regiment, to meet at such time and place as he shall appoint, and there with them to confer and give in charge such orders as shall by them, or the major part of them, be judged meet for the better ordering and settling their several companies, and for the better promoting military discipline amongst them; and the chief officer is hereby impowered by his warrant directed to any clerk or officer of his regiment, to summon or cause to be brought before them any offender against this Act, and according to law to hear and determine all matters proper for their cognisance, and to give sentence, and to grant Mittimus or Warrants of Distress to the clerk of the company where the offence is committed; for executing which warrant, if above forty shillings he shall have ten shillings out of the same for his pains and trouble therein, and no more.

That no clerk ex officio make distraint for any fine until six days after the offence committed, that so the party may have opportunity to make excuse, if any he hath, why he should not pay the fine, and every clerk that neglects or refuses to account or make payment as by this law is provided, he, by a warrant from the chief officer of the company, directed to the constable, may be distrained on for so much as he hath or should have collected or distrained for.

That all officers yield obedience to the warrants or commands of their superior officers, on penalty of five pounds, to be heard and determined at the next meeting of the chief officers and captains of the regiment, and the fine to be taken by distress and side of the offender's goods, (returning the overplus if any be) by warrant from the chief officer of the regiment, directed to the clerk of the company to which such offender belongs, and to be applied to the use and benefit of such company as the officers so met shall agree, their expences being first defrayed out of the same, not exceeding twenty shillings.

That an alarm at the Citadel in the town of Halifax, being made upon such causes as are agreeable to instructions to be given by the governor or commander in chief for the time being, to the officer commanding at the said Citadel, shall be by firing a beacon at the

summit of the Citadel Hill; or such other place as the governor or commander in chief for the time being shall hereafter appoint, and by firing four guns at the parade in the said town of Halifax, or at such other place as the Governor or Commander in chief for the time being shall appoint, distinctly one after the other; and also by firing four guns at Georges Island, distinctly one after the other, and at the distance of five minutes after the firing the four first mentioned guns at the parade, or such other place as aforesaid, all persons being called up to arm, upon which all the trained officers, soldiers, and others capable to bear arms, that are then resident in the said town, suburbs; or peninsula of Halifax, in case the alarm should be made, shall forthwith appear compleat with their arms and ammunition according to law, at such place or places of rendezvous as may from time to time, be appointed by the governor or commander in chief for the time being, there to attend such commands as shall be given for His Majesty's service, and that, on the penalty of five pounds, or three months imprisonment. The members of His Majesty's Council, Justices, and Provost-Marshal to attend upon his Excellency the Governor, if at Halifax, and in other places to appear and advise with the chief military officers of the place where such alarm shall be made, and to be assisting in His Majesty's service according to their quality. And if any person shall wilfully make any false alarm, he shall be fined to His Majesty for support of the government, or suffer twelve months imprisonment. And all alarms in other parts of the Province, to be according to instructions given by the governor or commander in chief for the time being, to the officers commanding there.

And for the better preventing of false alarms, be it further enacted by the authority aforesaid, that no captain, master or commander of any ship or vessel, riding at anchor or being within the harbour of Chebucto, or any other person or persons whatsoever, either afloat or on shore, within the town, suburbs, or peninsula or Halifax, the town or suburbs of Dartmouth, or places adjacent, shall presume to fire any guns or small arms, or beat any drum, after sunset, unless on some lawful occasion under the penalty of forty shillings for every gun or small arm so fired or drum beaten, to be levied by warrant from any one of His Majesty's Justices of the Peace for the county of Halifax, (who is hereby impowered to issue the same and to give judgement thereupon) by distress and sale of the offender's goods, and for want of such distress, to commit such offender to the goal, there to remain until payment be made of the same.

Provided always, that this clause shall in no wise be construed to extend to any captain or other officer of any of His Majesty's ships of war for their firing at setting the watch, nor to any of His Majesty's troops on shore or on board, in the execution of their duty.

That all persons exempted by this law from training, shall, notwithstanding, be provided with arms and ammunition compleat, upon the same penalty as those that are obliged to train.

Provided, that no person or persons whatsoever shall be sued, prosecuted, or his goods and chattels liable to any seizure by virtue of any clause in this Act before-mentioned, but within the space of three months after the committing the respective facts hereby made offences, and not at any time after the said three months.

All fines, penalties, and forfeitures arising by virtue of this Act or any breach thereof, (not otherwise disposed of therein) shall be for the use of the regiment or company respectively wherein the same doth arise, (that is to say,) for the procuring and repairing drums, colours, banners, Halbert, pay of drummers, or other charge of the said company, and the overplus, (if any be) to be laid out in arms and ammunition for a town stock: and be recoverable by action, bill, plaint, or information in any of His Majesty's Courts of Record.

And it is hereby humbly requested of his Excellency the Captain General, by the assembly, and be it enacted that whilst there is a sufficient number of regular troops within the town of Halifax for its defense, the militia of the town shall be spared from watching and warding without the picketed lines of the town.